

## **Rye City Planning Commission Minutes**

March 11, 2003

### **PRESENT:**

Michael Klemens, Chairman  
Barbara Cummings, Vice-Chair  
Franklin Chu  
Patrick McGunagle  
Martha Monserrate

### **ABSENT:**

Peter Larr  
Hugh Greechan

### **ALSO PRESENT:**

Christian K. Miller, AICP, City Planner  
George M. Mottarella, P.E., City Engineer  
Joseph Murphy, Chairman, Conservation Commission/Advisory Council (CC/AC)  
Chantal Detlefs, City Naturalist

Michael Klemens called the meeting to order and noted that a quorum was present to conduct official business.

## **I. HEARINGS**

### **1. Kass**

Chairman Klemens read the public notice and noted that the hearing was continued from the Commission's February 25 meeting.

Linda Whitehead (applicant's attorney) gave an overview of the application, noting that it involved the construction of a one-story addition at rear of an existing residence and the expansion of a patio within 100-foot buffer. Ms. Whitehead noted that the plan had been modified per the Commission's recommendations from the February 25 meeting. She noted that the revised plans eliminate the raising of the wall height along the easement, the inclusion of a planting schedule on the plan, and a statement limiting the use of heavy equipment over the City's easement.

The Commission invited comments from the public. There were no public comments.

On a motion made by Barbara Cummings, seconded by Franklin Chu and carried by the following vote:

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1 AYES: Michael Klemens, Franklin Chu, Barbara Cummings, Martha Monserrate,  
2 Patrick McGunagle

3 NAYS: None

4 RECUSED: None

5 ABSENT: Hugh Greechan, Peter Larr

6  
7 the Planning Commission took the following action:

8  
9 **ACTION:** The Planning Commission closed the public hearing on Wetland Permit  
10 Application #WP124.

### 11 12 **2. Walker Subdivision**

13  
14 Before the opening of the public hearing, Linda Whitehead (applicant's attorney)  
15 consented to the Commission's request that it defer the SEQRA determination of  
16 significance for the proposed action. The Commission noted that it wanted to hear public  
17 comment regarding the application and an alternative subdivision plans prior to making  
18 such a determination.

19  
20 Chairman Klemens read the public notice.

21  
22 Linda Whitehead and Beth Evans (applicant's environmental consultant) gave a brief  
23 overview of the changes to the application since the last meeting. Ms. Whitehead noted  
24 that the plan involved a 3-lot subdivision with the access driveway along the south side of  
25 the property extending from Forest Avenue. She noted that the existing residence on the  
26 property would be retained and that two new houses would be constructed. Ms. Whitehead  
27 indicated that the portion of the lots where houses are proposed are level and have few  
28 trees. She noted that the driveway along the south side of the property would be within a  
29 30-foot wide strip and would be sensitively sited to minimize tree loss and impacts to  
30 neighbors on Rockridge Road. Ms. Whitehead indicated that a driveway alignment on the  
31 north side of the property was not desirable due to limited sight distance on Forest Avenue,  
32 limited existing vegetation to provide screening of a driveway and the potential impact on  
33 the adjacent Clark residence, which is located close to the applicant's property line and in  
34 direct line of any proposed driveway. She also noted that the applicant presented a  
35 driveway extending from Manursing Way, but that the Commission noted concerns with that  
36 alignment since it would go through a wetland buffer.

37  
38 The Chairman noted that the Commission conducted a site walk of the property to review  
39 each of the three alternative driveway alignments. He noted that there were no decisions  
40 made by the Commission at the site walk. Chairman Klemens also noted that the CC/AC  
41 provided comments opposing a driveway from Manursing Way due to the wetland buffer

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1 impacts and that the City's Wetlands Law requires the Commission to consider project  
2 alternatives that avoid wetland buffer impacts.

3  
4 The Chairman invited public comments.

5  
6 Karen Hirsch (resident of 17 Rockridge Road) stated that she tried to obtain copies of the  
7 alternative driveway proposals from the City and but was told that such copies could not be  
8 made. She requested that the Commission keep the public hearing open until she could  
9 obtain said copies and seek legal council regarding the impact of the proposed  
10 subdivision and driveway on her property. The City Planner noted that copies of the file  
11 could be made and that Ms. Hirsch should stop by the Planning Department to review the  
12 file.

13  
14 Christopher Clark (resident of 10 Manursing Way) noted the close proximity of his property  
15 to the applicant's property and the impact a driveway could have on his residence. Mr.  
16 Clark suggested that the Commission consider a subdivision design that provides a  
17 driveway from Manursing Way. He noted that a driveway from that location would have the  
18 least impact on neighbors. He suggested that the plan with access from Manursing Way  
19 would have only one additional building lot, which should be considered a benefit to the  
20 overall environmental benefit of the area and the adjacent wetlands on the Edith Reed  
21 Sanctuary property.

22  
23 Mr. Clark noted that his residence was built in 1930 and was once the carriage house to  
24 the applicant's residence. He noted and that his residence is pre-existing non-conforming  
25 and is located approximately 3 feet from the applicant's northern property line. Mr. Clark  
26 suggested that a driveway alignment on the south side of the property would not impact  
27 abutting Rockridge Road properties as much as his since those properties have rear yards  
28 that would provide separation and screening from any proposed driveway. Mr. Clark  
29 concluded by recommending that if a driveway is provided along the northern property line  
30 that an easement be provided along the property line to provide additional separation from  
31 his residence.

32  
33 Catherine Stack (180 Forest Avenue) noted the proximity of her residence across the  
34 street from the proposed subdivision and directly across the street from the proposed  
35 driveway. She stated that she was not able to view the plans when she went to City Hall.  
36 She noted that she does not oppose the subdivision, but felt that the southern driveway  
37 alignment was not appropriate due to sight line and traffic safety concerns. Mrs. Stack's  
38 driveway also exits out onto Forest Avenue and stated that many times she has been  
39 surprised by joggers, bicyclists and pedestrians when pulling out of her drive. She noted  
40 the prevalence of speeding vehicles on Forest Avenue and that there have been several  
41 incidents of traffic tickets issued and fender-benders at the Rockridge intersection. Mrs.

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Stack also stated that the portion of the applicant's property extending to Manursing Way is currently a "dumping ground" for area residents now, so using it for a driveway access would not adversely impact the adjacent wetlands. She also stated that the stretch of roadway where the driveway would exit onto Manursing Way was wider than the stretch of Forest Avenue abutting the applicant's property.

Ms. Stack noted concerns regarding the impact to existing wildlife. She stated that deer and turkey have been seen going from her property across Forest Avenue to the applicant's property. She suggested that the proposed tree loss associated with the proposed driveway could disrupt this wildlife pattern and contribute to stormwater drainage problems in the area.

On a motion made by Patrick McGunagle, seconded by Martha Monserrate and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Hugh Greechan, Peter Larr

the Planning Commission took the following action:

**ACTION:** The Planning Commission continued the public hearing for Subdivision and LWRP Coastal Consistency Application Number SUB272.

## II. ITEMS PENDING ACTION

### 1. Kass

The Chairman noted that there were no public comments regarding this property.

Linda Whitehead (applicant's attorney) and Dawn Morton (applicant's landscape designer) presented revised plans to the Commission noting the inclusion of the planting schedule on the plan and the removal of the addition construction of the wall along the easement. The Commission discussed the language they would like to see on the plan regarding the City Engineer's request that no heavy construction equipment be driven over the easement without the City Engineer's approval. The Commission also requested that the date on the plan be changed from 2002 to 2003 and the 75/25 impervious ratios be corrected and the wetland mitigation plantings recalculated.

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On a motion made by Barbara Cummings, seconded by Patrick McGunagle and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: Hugh Greechan, Peter Larr

the Planning Commission took the following action:

**ACTION:** The Planning Commission approved, with revisions, Wetland Permit #124.

### 2. Walker Subdivision

The Commission noted that they conducted a second site walk of the property and viewed all three of the driveway proposals. The Commission also noted that the recommendation of the CC/AC was not to allow the Manursing Way driveway access because of substantial wetland buffer impacts. The Commission stated that the Wetlands Law requires the Commission to prepare written findings if it makes a decision that differs from the CC/AC recommendations. The Commission discussed the fact that the CC/AC never reviewed a plan with enhanced wetland mitigation for buffer disturbances because the applicant never presented the Commission with that option. The Commission noted that perhaps the applicant might want to consider presenting an access through Manursing Way with enhanced wetland mitigation. Beth Evans (applicant's environmental consultant) stated that the current plan was based on the Commission's direction and is consistent with the City's Wetlands Law. She noted that driveway access from Forest Avenue was a viable alternative and that the City's Wetlands Law appeared to mandate this alternative since it would result in no wetland buffer disturbance. The City Planner noted that the extent of desired mitigation to compensate for impacts associated with a driveway extending from Manursing Avenue might be more than the applicant is willing to provide. Ms. Whitehead stated that the applicant is going to continue to pursue the 3-lot plan subdivision plan with driveway access from Forest Avenue along the southern property line.

The Commission recognized the applicant's right to pursue the current plan, but noted that it would evaluate the plan carefully to see that it addresses potential impact issues. The Commission noted that it could impose conditions on the application or reduce the number of lots to address concerns.

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1 The Commission discussed sight line and traffic concerns associated with the proposed  
2 driveway. The Commission requested that the applicant provide site distance analysis for  
3 all three alternative driveway locations and traffic incident reports in the area.

4  
5 The City Planner requested that the application be amended to provide a complete tree  
6 survey and preservation plan, proposed grading for the driveway, utility information,  
7 stormwater drainage and erosion control plans and all other information required by the  
8 City's Subdivision Regulations. Ms. Whitehead stated that the Commission would have a  
9 revised submission in advance of the Commission's April 8, 2003 meeting.

### 10 11 **3. Hancock**

12  
13 David Mooney (applicant's architect) presented revised plans showing a 56-square foot  
14 planting area as mitigation for the construction of a dock as requested by the Commission  
15 at it last meeting. The Commission suggested adding Beach Plum to the planting list.

16  
17 On a motion made by Barbara Cummings, seconded by Franklin Chu and carried by the  
18 following vote:

19  
20 AYES: Michael Klemens, Franklin Chu, Barbara Cummings, Martha Monserrate,  
21 Patrick McGunagle

22 NAYS: None

23 RECUSED: None

24 ABSENT: Hugh Greechan, Peter Larr

25  
26 the Planning Commission took the following action:

27  
28 **ACTION:** The Planning Commission approved, with revisions, Wetland Permit #123.

### 29 30 **4. Liew Residence**

31  
32 Paul Jaehnig (applicant's wetlands consultant) and John Scarlato (applicant's architect)  
33 gave a brief overview of the project noting that it involves the construction of an addition to  
34 an existing single-family residence, including a new family room, dining room and second  
35 floor and an expansion of an existing deck and a proposed gazebo, within 100 feet of an  
36 offsite wetland. The property is approximately 1.15 acres.

37  
38 The Commission questioned why the proposed residence and extent of buffer  
39 encroachment was necessary. Mr. Scarlato noted that the residence involves an  
40 expansion in the rear of the existing residence. An expansion to the side or front was not  
41 possible or practical due to zoning setbacks and a steep slope on the front of the property.

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1 The Commission requested that additional information be provided to support the  
2 applicant's position and why the residence could not be designed to be smaller or avoid  
3 wetland buffer impacts and still meet the applicant's needs.

4  
5 The Commission questioned Mr. Scarlato as to whether the proposed house is consistent  
6 with the City's proposed house scale recommendations. Mr. Scarlato agreed to review the  
7 recommendations, but stated that he designed the proposed residence based on current  
8 law not proposed recommendations

9  
10 The Commission questioned the proposed buffer calculation and ask the applicant to  
11 clarify on the plan whether the deck was included in the calculation of impervious area.

12  
13 The Commission agreed that there should be no public hearing until it reviews the property  
14 at its next site walk on March 22, 2003.

### **5. Enhanced Environmental Protection Resolution**

15  
16  
17  
18 The Commission reviewed a draft memorandum prepared by the City Planner providing  
19 comments raised at its last meeting on the City Council's enhanced environmental  
20 protection resolution.

21  
22  
23 On a motion made by Martha Monserrate, seconded by Barbara Cummings and carried by  
24 the following vote:

25  
26 AYES: Michael Klemens, Franklin Chu, Barbara Cummings, Martha Monserrate,  
27 Patrick McGunagle

28 NAYS: None

29 RECUSED: None

30 ABSENT: Hugh Greechan, Peter Larr

31  
32 the Planning Commission took the following action:

33  
34 **ACTION:** The Planning Commission approved Planning Commission memorandum  
35 number 01-2003 to the Rye City Council.

### **6. Discussion of City Wetlands and Watercourses Law**

36  
37  
38  
39 The Commission agreed to defer this matter to its next meeting on March 25, 2003.

### **7. Minutes**

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The Planning Commission reviewed and approved the minutes of its February 25, 2003 meeting.

### **8. Miscellaneous Matter**

The Commission noted Beechwind Properties most recent site plan submission to the Zoning Board of Appeals for a property located at 670 Milton Road. The Commission noted that the plan did not appear to be consistent with its LWRP coastal consistency determination it provided the ZBA. Specifically the Commission noted concern with the proposed demolition of the Gedney Store. The Commission directed the City Planner to prepare a memorandum to the ZBA reiterating its previous advisory recommendation. The Commission also unanimously favored the Vice-Chairman presenting its concerns to the ZBA at their next meeting on March 20.

### **9. East Restaurant**

Chairman Klemens noted that he is a tenant of the building of the subject application. Chairman Klemens recused himself, left the hearing room and Vice-Chairman Cummings served as chair for the remainder of the meeting.

Tucker Chase (applicant's architect) gave a brief overview of the application noting that it involves adding an approximately 200 square foot addition in the rear of an existing building. Mr. Chase noted that dumpster screening and some landscaping would be provided. The existing paved area in the rear of the property would be retained.

The City Planner noted that the property currently has seven tandem parking in the rear. He noted that this configuration does not comply with the City of Rye Zoning Code and that the applicant needs to show that it can have at least four spaces, however one of which is a compact space. The City Planner noted that compact spaces are permitted but must be approved by the Commission.

The Commission discussed refuse disposal and landscape enhancements in the rear of the property. The City Planner, noted that the previous site plan for this property approved by the Commission in 1985 provided landscaping and dumpster screening. Mr. Chase responded that the current plan provides screening, but that the extent of landscaping as provided by the prior approval would not afford the applicant to provide seven parking spaces on the rear of the property.

The Commission suggested that the applicant explore enclosing refuse within the building as was done on a recent restaurant application approved by the Commission.



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1  
2 The Commission also discussed the aesthetic treatment of the existing exhaust vent on the  
3 rear of the building. Mr. Chase stated that the vent could be enclosed with material  
4 matching the current siding of the building if the Commission desired.

5  
6 The Commission noted that it would conduct a site walk of the property on March 22, 2003.

7  
8 On a motion made by Martha Monserrate, seconded by Patrick McGunagle and carried by  
9 the following vote:

10  
11 AYES: Franklin Chu, Barbara Cummings, Martha Monserrate, Patrick McGunagle

12 NAYS: None

13 RECUSED: Michael Klemens

14 ABSENT: Hugh Greechan, Peter Larr

15  
16 the Planning Commission took the following action:

17  
18 **ACTION:** The Planning Commission scheduled a public hearing for March 25, 2003.

19  
20 There being no further business the Commission unanimously adopted a motion to adjourn  
21 the meeting at approximately 10:15 p.m.

22  
23 Christian K. Miller, AICP  
24 City Planner  
25  
26  
27